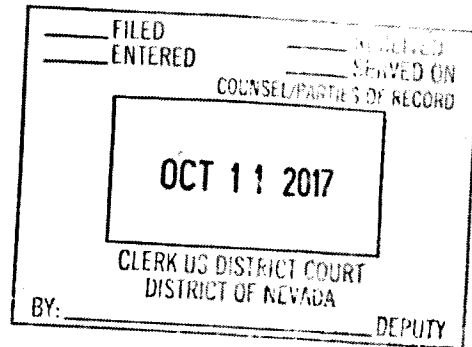




**SEALED**

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**(702) 388-6336**



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6 *Representing the United States of America*

7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF NEVADA

-oOo-

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.

12 LAWRENCE PATRICK MAGANA et al.,

13 Defendants.  
14

Case No. 2:17-cr-00228-KJD-PAL

GOVERNMENT'S MOTION  
TO UNSEAL CASE AND TO  
PARTIALLY UNSEAL  
INDICTMENT

15 The United States of America, by and through Steven W. Myhre, Acting  
16 United States Attorney, and Richard Anthony Lopez, Assistant United States  
17 Attorney, hereby moves this Court for an order unsealing the case and (in lieu of  
18 unsealing the Indictment) permitting the public filing of a version of the Indictment  
19 that redacts only the identities of defendants not yet arrested by law enforcement.

20 I. FACTUAL AND PROCEDURAL BACKGROUND

21 On July 26, 2017, a Federal Grand Jury charged Lawrence Patrick Magana  
22 and multiple co-defendants with one count of Conspiracy to Commit Wire Fraud in  
23 violation of 18 U.S.C. §§ 1343, 1349. On September 22, 2017, Defendant Magana was

1 arrested on the resulting warrant while trying to board a cruise ship in San Diego,  
2 California. On October 6, 2017, Defendant Magana made his initial appearance in  
3 this District. Because the other defendants remain at large, the Government seeks  
4 to have the case unsealed, while keeping under seal the portion of the Indictment  
5 referencing the identities of the defendants who have not yet been arrested. A  
6 redacted version of the Indictment that seals the identity of those defendants is  
7 attached as Exhibit A.

## 8 II. ARGUMENT

9 Under Federal Rule of Criminal Procedure 6(e)(4), “[t]he federal magistrate to  
10 whom an indictment is returned may direct that the indictment be kept secret until  
11 the defendant is in custody or has been released pending trial.” “The decision of a  
12 magistrate to seal an indictment is entitled to considerable deference.” United States  
13 v. Gigante, 436 F. Supp. 2d 647, 654 (S.D.N.Y. 2006).

14 The “obvious purpose” of the Rule “is to prevent the requirement of an  
15 indictment from serving as a public notice that would enable the defendant to avoid  
16 arrest.” United States v. Davis, 598 F. Supp. 453, 455 (S.D.N.Y. 1984) (quoting  
17 United States v. Muse, 633 F.2d 1041, 1043 (2d Cir. 1980)); see also United States v.  
18 Upton, 339 F. Supp. 2d 190, 194 (D. Mass. 2004) (“Rule 6(e)(4) presumes a  
19 governmental objective of preventing pre-arrest flight by the defendant . . .”).

20 Where, as here, an indictment charges multiple defendants and some, but not  
21 all, have been arrested, the Government’s interest in preventing pre-flight arrest of  
22 those at large defendants remains as strong as when the indictment first issued. For  
23 that reason, courts have permitted the redaction of the identities of those remaining

1 defendants pending their apprehension. See United States v. Diaz, 2006 WL  
2 1833081, at \*3 (N.D. Cal. June 30, 2006) (denying defendant's request to unredact  
3 the names of two co-defendants because "the names of those two redacted defendants  
4 are properly withheld to facilitate their capture"); see also United States v. Walker,  
5 1996 WL 924620, at \*1 (W.D. Va. Oct. 21, 1996) (rejecting the Government's request  
6 to keep the entire case and indictment under seal because "redaction [of the  
7 indictment] is proper to meet the concerns of the United States attorney about  
8 alerting co-defendants who are still at large").

9 "In fairness, [redaction] is entirely the appropriate way to proceed." Walker,  
10 1996 WL 924620, at \*2. Then, once the remaining codefendants are arrested (and  
11 thus the Government's "legitimate need for delay has been satisfied"), the  
12 Government will move to unseal the Indictment in its entirety. United States v.  
13 Watson, 599 F.2d 1149, 1154 (2d Cir. 1979).

### 14 III. CONCLUSION

15 To facilitate the arrest of the outstanding defendants in this case, the  
16 Government respectfully requests that this Court grant the Government's motion,  
17 unseal the case, and permit the public filing of a version of that Indictment that  
18 redacts the identities of Defendant Magana's co-defendants (attached as Exhibit A).

19 DATED this 11th day of October, 2017.

20 Respectfully submitted,  
21 STEVEN W. MYHRE  
22 Acting United States Attorney

23   
RICHARD ANTHONY LOPEZ  
Assistant United States Attorney

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

-oOo-

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 vs.

6 LAWRENCE PATRICK MAGANA et al.,

7 Defendants.  
8

Case No. 2:17-cr-00228-KJD-PAL

9 ORDER

10 Based on the Government's Motion to Unseal the Case and to Partially Unseal  
11 the Indictment in the above-captioned matter and good cause appearing therefore,

12 IT IS HEREBY ORDERED that the case be unsealed;

13 IT IS FURTHER ORDERED that the Indictment remain under seal at this  
14 time; and

15 IT IS FURTHER ORDERED that the Government file Exhibit A as a public  
16 version of the Indictment.

17  
18 DATED this 11<sup>th</sup> day of October, 2017.

19  
20  
21   
22 UNITED STATES MAGISTRATE JUDGE  
23

**CERTIFICATE OF SERVICE**

I, Richard Anthony Lopez, hereby certify that I am an employee of the United States Attorney's Office for the District of Nevada and that on this day I served an electronic copy of the above GOVERNMENT'S MOTION TO UNSEAL CASE AND TO PARTIALLY UNSEAL INDICTMENT on Counsel of Record via electronic mail and by first class mail at the address below:

Dan Coe  
Federal Public Defender Office  
411 E. Bonneville Ave., Ste. 250  
Las Vegas, NV 89101  
dan\_coe@fd.org  
*Counsel for Defendant Lawrence Patrick Magana*

Dated: October 11, 2017

  
RICHARD ANTHONY LOPEZ  
Assistant United States Attorney

# EXHIBIT A

Redacted Version of Indictment

1 STEVEN W. MYHRE  
Acting United States Attorney  
2 RICHARD ANTHONY LOPEZ  
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3 501 Las Vegas Boulevard South, Suite 1100  
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richard.lopez2@usdoj.gov

5 *Representing the United States of America*

6  
7 **UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 LAWRENCE PATRICK MAGANA,

12 [REDACTED]  
13 [REDACTED]  
14 Defendants.

**SEALED  
CRIMINAL INDICTMENT**

Case No. 2:17-cr- 228

**VIOLATION:**

Conspiracy to Commit Wire Fraud  
(18 U.S.C. §§ 1343, 1349)

15  
16 **THE GRAND JURY CHARGES THAT:**

17 **COUNT ONE**

***Conspiracy to Commit Wire Fraud***  
**(18 U.S.C. §§ 1343, 1349)**

18  
19 1. Beginning on a date unknown and continuing until on or about May 27,  
20 2013, in the State and Federal District of Nevada and elsewhere,

21 **LAWRENCE PATRICK MAGANA,**  
22 [REDACTED]  
23 [REDACTED]

FILED	RECEIVED
ENTERED	SERVED ON
CONSULTEE/ARTIST OF RECORD	
JUL 27 2017	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
RY:	DEPUTY



1 defendants herein, and other conspirators, both known and unknown to the Grand  
2 Jury, did knowingly and willfully combine, conspire, confederate, and agree with each  
3 other and others known and unknown to the Grand Jury, to devise and execute a  
4 scheme and artifice to defraud and to obtain money and property by means of  
5 materially false and fraudulent pretenses, representations, and promises, and to  
6 cause the interstate transmission of writings, signs, signals, and sounds for the  
7 purpose of executing that scheme, in violation of Title 18, United States Code, Section  
8 1343.

#### 9 OBJECT OF THE CONSPIRACY

10 2. The object of the conspiracy was to enrich the conspirators by unlawfully  
11 using stolen credit card information to fraudulently induce businesses to provide  
12 goods and services, such as hotel rooms, tickets, and meals to the conspirators and to  
13 third parties.

#### 14 MANNER AND MEANS OF THE CONSPIRACY

15 3. It was part of the conspiracy and scheme to defraud that MAGANA,  
16 [REDACTED] and other co-conspirators recruited customers with  
17 promises of providing discounted Las Vegas hotel reservations.

18 4. It was further part of the conspiracy and scheme to defraud that  
19 MAGANA, [REDACTED], and other co-conspirators used text messages,  
20 emails, and telephone calls to coordinate the booking of reservations for those  
21 customers.

22 5. It was further part of the conspiracy and scheme to defraud that  
23 MAGANA would use an Internet website to make a reservation in the customer's

1 name at a Las Vegas hotel and secure that reservation with a stolen credit card  
2 number he did not have authorization to use.

3 6. It was further part of the conspiracy and scheme to defraud that  
4 MAGANA, [REDACTED] and other co-conspirators provided the  
5 customer with a confirmation of that customer's hotel reservation using email.

6 7. It was further part of the conspiracy and scheme to defraud that  
7 MAGANA, [REDACTED], or other co-conspirators would secure payment  
8 from the customer in cash or prepaid cards, such as MoneyPak Green Dot card.

9 All in violation of Title 18, United States Code, Section 1349.

10  
11 DATED: this 26<sup>th</sup> day of July, 2017.

12 A TRUE BILL:

13  
14 /S/  
15 FOREPERSON OF THE GRAND JURY

16 STEVEN W. MYHRE  
17 Acting United States Attorney

18   
19 RICHARD ANTHONY LOPEZ  
20 Assistant United States Attorney